

REMARKS

Telephone Interview

Applicants' below signed representative wishes to thank Examiner Hoey for the courtesies extended during the telephone interview on September 18, 2008 in the above identified case. As discussed during the interview, claim 20 has been amended to recited that the upper portion extends over the shoulder region of the wearer's torso. Claim 20 has further been amended to recite that the seam between the upper and the lower part is sewn together, and that the overshorts are sewn on to the lower part at the seam. Thus, claim 20 now incorporates the limitations of claim 21 and 22. As will be discussed in more detail below, it is submitted that the amendments made herein distinguish over the cited references.

Claim Status

Claims 20, 23, 24, and 28-32, 34, 35, 37, and 38 are now pending in this application. As noted, the limitations of claims 21 and 22 have been incorporated into claim 20, thus, claims 21 and 22 have been canceled.

Because the limitations of claim 22 are incorporated into claim 20, claims 25-27 have been canceled.

The remaining claims have been amended to place them into more idiomatic English and conventional U.S. format.

New claim 38 is directed to the ventilation openings as shown in Figure 1 and described in the specification at page 7, fourth full paragraph. As described on page 7, these ventilation openings can be described as incisions. As shown in Figure 1, these incisions run traverse to the main axis of the upper garment. Thus, claim 38

recites that the ventilation opening is in the form of an incision in the upper part and traverse to the upper part.

Respectfully, no new matter has been added by way of these amendments.

Prior Art and Telephone Interview

As discussed during the telephone interview, claim 20 has been amended to clarify that the upper part which is made of elastic material and fits tightly on and covers the wearer's torso, goes up the wearer's torso to include the shoulder region. Such amendment overcomes the various prior art rejections contained in the Final Office Action dated April 23, 2008, because none of the prior art cited in that Final Office Action shows an upper portion for sports clothing that is made of elastic material and fits tightly over the wearer's torso to include up and over the shoulder region of the wearer.

During the telephone interview, the Examiner noted the reference Herbener (U.S. 3,777,764) and requested that the Applicants distinguish over the teachings of Herbener. Applicants submit that the claims as presented herein do distinguish over Herbener.

First, with respect to Herbener, it will be noted that Herbener does not have a seam between an upper part and a lower part of his garment. His garment is a unitary garment which appears to be elastic throughout. Claim 20 as presented herein incorporates the limitations of claim 22 and specifically calls for a seam between the upper and lower part that is formed by sewing together an upper and lower part. Herbener clearly does not have an upper and lower part which are sewn together to form a seam between the upper and lower part.

Furthermore, the overshort portion of Herbener, 23, 31, 36, 27, 39, 44, and 48, are not sewn onto the elastic garment. Claim 20 includes the limitations of claim 21 and specifically requires that the overshorts are sewn onto the lower part at the seam.

Additionally, Applicants wish to direct the Examiner's attention to new claim 38. New claim 38 is directed to the ventilation opening as illustrated in Figure 1, specifically it calls for a ventilation opening in the form of an incision in the upper part and that this incision runs traverse to the upper part. None of the references show such a ventilation opening which is in the upper part of the garment and runs traverse to the upper part of the garment. The Examiner will note that for the ventilation opening the Examiner pointed to element 26 in Munjone, element 26 is in the lower part and is not traverse to the lower part but rather runs parallel with the overall axis of the lower part.

In view of the foregoing, it is respectfully submitted the application is in condition for allowance and such action is respectfully requested.

Should any extensions of time or fees be necessary in order to maintain this Application in pending condition, appropriate requests are hereby made and authorization is given to debit Account # 02-2275.

Respectfully submitted,

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